101TH CONGRESS
1ST SESSION | HOUSE OF REPRESENTATIVES | REPORT
101-105

TO REMOVE A LIMITATION ON THE PAYMENT OF PENSION TO VETERANS FURNISHED LONG-TERM HOSPITAL CARE BY THE DEPARTMENT OF VETERANS AFFAIRS AND TO REDUCE THE PERIOD OF MARRIAGE OF CERTAIN SURVIVING SPOUSES REQUIRED FOR DEPENDENCY AND INDEMNITY COMPENSATION

JUNE 22, 1989.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

---

Mr. MONTGOMERY, from the Committee on Veterans' Affairs, submitted the following

REPORT

[To accompany H.R. 1334]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 1334) to amend title 38, United States Code, to remove a limitation relating to the payment of pension to veterans furnished hospital care by the Department of Veterans Affairs on a long-term basis, having considered the same, reports favorably thereon with amendments, by unanimous voice vote, and recommends that the bill as amended do pass.

The amendments are as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. REMOVAL OF LIMITATION ON PAYMENT OF PENSION TO VETERANS FURNISHED LONG-TERM HOSPITAL CARE BY DEPARTMENT OF VETERANS AFFAIRS.

Section 3203(a)(1) of title 38, United States Code, is amended by striking out "hospital or" each place it appears in subparagraphs (B) and (D).

SEC. 2. REDUCTION IN PERIOD OF MARRIAGE OF CERTAIN SURVIVING SPOUSES FOR ELIGIBILITY FOR DEPENDENCY AND INDEMNITY COMPENSATION.

Section 418(c)(1) of title 38, United States Code, is amended by striking out "two years" and inserting in lieu thereof "one year".

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall take effect on October 1, 1989.

99-250 O

H.763-5

Amend the title so as to read: "A bill to amend title 38, United States Code, to remove a limitation relating to the payment of pension to veterans furnished hospital care by the Department of Veterans Affairs on a long-term basis and to reduce the period of time that a surviving spouse must have been married to a veteran who dies while in receipt of compensation for a service-connected disability in order for the surviving spouse to be eligible for dependency and indemnity compensation.".

INTRODUCTION

On March 9, 1989, the Chairman of the Subcommittee on Compensation, Pension and Insurance, the Honorable Douglas Applegate, introduced H.R. 1334, a bill that would remove a limitation in current law regarding the payment of non-service-connected disability pension to certain hospitalized veterans having no spouse or dependents. On the same day, Mr. Applegate introduced H.R. 1336, a bill that would reduce, from two years to one year, the period of time a surviving spouse must have been married to a veteran who, for at least ten years prior to death, was totally disabled due to a service-connected disability, but died of a non-service-connected condition or cause, in order for the surviving spouse to be eligible for a death benefit paid at rates applicable to Dependency and Indemnity Compensation (DIC).

On April 5, 1989, the Subcommittee held a hearing on these two measures as well as other bills affecting compensation and pension benefits. Both bills were strongly supported by the veterans service organizations. The Department of Veterans Affairs did not support the abolition of the pension-reduction provision as would be accomplished by H.R. 1334 and also objected to H.R. 1336.

On June 14, 1989, the Subcommittee approved both bills for consideration by the full Committee without amendment.

On June 20, 1989, the full Committee ordered H.R. 1334 favorably reported, with an amendment which incorporates the provisions of H.R. 1336.

SUMMARY OF THE BILL

H.R. 1334 as reported, would:

(1) Remove a current provision in law which limits, to $60, the amount of pension payable per month to a single veteran with no dependents who is being furnished hospital care by the Department of Veterans Affairs for any period after the end of the third full calendar month following the month of admission; and

(2) Reduce the length of marriage required in order for certain surviving spouses of veterans whose deaths were not service connected to be eligible for death benefits paid at DIC rates as if the veterans' deaths were service connected.

DISCUSSION OF THE BILL

Section 1 of the bill contains an amendment to section 3203(a)(1)(B) and (D) of title 38, United States Code, that would delete the words "hospital or" in both subparagraphs and thereby remove a current limitation on the amount of non-service-connected disability pension that may be paid to a veteran who has no spouse or dependents and who is furnished hospitalization by the Department of Veterans Affairs for a period in excess of three full calendar months following the month of admission. Such veteran's

disability pension is now limited to a maximum of $60 per month while the veteran is so hospitalized.

It was brought to the Committee's attention that the operation of current law can work to create an undue hardship on a veteran who is hospitalized for more than three calendar months. In the event of an extended hospitalization beyond this time period, the maximum amount of pension payable to the veteran cannot exceed $60 per month. The sole exception to the requirement that a veteran's pension be so reduced is found in a case where the Secretary determines that continued hospitalization, the purpose of which is to provide the veteran with a prescribed program of rehabilitation services, is necessary to restore the veteran's ability to function within the veteran's family and community. The most common cases involving such rehabilitation programs involve blinded and paralyzed veterans.

In those cases where no extension is granted, the pension must be reduced. Unfortunately, if the veteran has ongoing expenses, such as rental or loan obligations, the veteran must draw on whatever savings he or she might have or seek outside financial assistance in order to avoid a default, with the potential loss of a home resulting. An additional consideration of the Committee in pursuing enactment of this provision is the administrative burden on the Department of Veterans Affairs, which must track all such cases, implement a reduction when appropriate and restore the award after the veteran's discharge and, in some cases, establish overpayments and effect offsets from future awards. Given the continued decline in the Department's ability to process benefit awards on a timely basis, the hardships that may be created upon failure of the Department to timely restore the veteran's proper benefits outweigh the purpose for imposing the limitation. Additionally, the very nature of pension limits any potential for a windfall. Finally, in view of the fact that the great majority of hospitalizations are short in duration, a continued need for the current provision cannot be said to exist.

Section 2 of the bill contains an amendment to the eligibility criteria contained in section 418(c)(1) of title 38, United States Code, applicable to surviving spouses of certain service-connected disabled veterans rated totally disabled continuously for ten years prior to the time of death for benefits payable at DIC rates as if the veteran's death were service connected. Current law provides that such benefits may be paid to a veteran's surviving spouse if he or she was married to the veteran for not less than two years immediately preceding the veteran's death, or for no specified time if a child was born to them of or before the marriage. The general length of marriage requirement applicable in the case of a service-connected death, which results in a spouse's eligibility for DIC, is only one year. This provision would simply conform the two requirements and, absent the birth of a child, require only a one-year marriage in either case. The Committee believes that enactment of this provision is warranted in that the adjudication of claims for these death benefits would be less complicated and certain inequitable situations which may result under current law will be avoided.

Section 3 of the bill states that the amendments made by this Act shall be effective on October 1, 1989.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

The Committee received the following letter from the Congressional Budget Office on the reported bill:

CONGRESSIONAL BUDGET OFFICE
U.S. CONGRESS
WASHINGTON, D.C. 20515

Robert D. Reischauer
Director

June 21, 1989

Honorable G. V. Montgomery
Chairman
House Committee on Veterans' Affairs
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

The Congressional Budget Office has prepared the attached cost estimate for H.R. 1334, a bill to eliminate the reduction in pension benefits during lengthy stays in Department of Veterans Affairs hospitals, and for other purposes, as ordered reported by the House Committee on Veterans Affairs, June 20, 1989.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

Robert D. Reischauer

cc. Honorable Bob Stump
Ranking Minority Member

CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

June 21, 1989

1. BILL NUMBER: H.R.1334

2. BILL TITLE: None.

3. BILL STATUS:

As ordered reported by the House Committee on Veterans Affairs, June 20, 1989.

4. BILL PURPOSE:

This bill would eliminate the reduction in pension benefits required during lengthy stays in Department of Veterans Affairs (VA) hospitals, and would relax the marriage requirements for certain surviving spouses to collect Dependency and Indemnity Compensation (DIC) benefits.

5. ESTIMATED COST TO THE FEDERAL GOVERNMENT:

	(by fiscal years, in millions of dollars)				
	1990	1991	1992	1993	1994
Budget Authority	4	4	4	5	5
Outlays	4	4	4	5	5

The cost of this bill would fall in budget function 700.

Basis of Estimate

Section 1. Under current law, veteran pensioners receiving hospital or nursing home care at VA expense have their pensions reduced to a maximum of $60 a month after the fourth month of inpatient care. This section would provide that the pension reduction no longer apply to hospital care.

	(by fiscal years, in millions of dollars)				
	1990	1991	1992	1993	1994
Budget Authority	4	4	4	5	5
Outlays	4	4	4	5	5

According to data collected by the VA in February, 1989, there were 4,052 pensioners having approximately $1.1 million per month withheld from their pension checks as a result of lengthy hospital and nursing home stays. The VA cannot distinguish between pension reductions for hospital care and those for nursing home care. Further, there is little data

available from the VA or the private sector on the distribution of nursing home patients by length of stay. Therefore, it is not possible to estimate with any certainty the distribution between hospital and nursing home care of VA pensioners with inpatient stays of more than four months.

If all pension reductions were eliminated by this provision, the maximum cost would be around $13 million a year. However, it is far more likely that a small proportion of pension reductions would be affected, because the majority of inpatient stays in excess of four months occur in nursing homes rather than in hospitals. The above estimate assumes that 30 percent of the veterans with pension reductions would return to full payment status under this provision. If the percentage of veterans affected by the provision is greater or less than assumed, the cost could be higher or lower than estimated.

Section 2. This bill would reduce to one year the period of time a widow or widower must have been married to a veteran who dies while in receipt of compensation in order for the surviving spouse to be eligible for DIC benefits.

The number of cases affected by this section would be too small to result in a significant cost.

6. ESTIMATED COST TO STATE AND LOCAL GOVERNMENT:

The Congressional Budget Office has determined that the budgets of state and local governments would not be significantly affected by the enactment of this bill.

7. ESTIMATE COMPARISON: None.

8. PREVIOUS CBO ESTIMATE: None.

9. ESTIMATE PREPARED BY: K. W. Shepherd (226-2820)

10. ESTIMATE APPROVED BY:

for James L. Blum
Assistant Director
for Budget Analysis

Oversight Findings

No oversight findings have been submitted to the committee by the Committee on Government Operations.

Inflationary Impact Statement

The reported bill would have no inflationary impact.

Departmental Views

Department of Veterans Affairs,
Office of the Secretary of Veterans Affairs,
Washington, D.C., March 31, 1989.

Hon. G.V. (Sonny) Montgomery, *Chairman,*
Committee on Veterans' Affairs,
U.S. House of Representatives,
Washington, D.C. 20515

Dear Mr. Chairman: Thank you for your letter of March 17 requesting the Department of Veterans Affairs views and cost estimates regarding H.R. 1334, H.R. 1335, and H.R. 1336.

If you have no objection, the requested information will be provided in the prepared statement of Mr. R.J. Vogel, Chief Benefits Director, who will be testifying for the Department at the hearing scheduled for April 5 before the Subcommittee on Compensation, Pension and Insurance. Following Committee rules, the Department will endeavor to provide this statement by April 3.

Thank you for your consideration.

Sincerely,

Edward J. Derwinski,
Secretary.

[The following excerpts were taken from the testimony of the Department's Chief Benefits Director, Mr. R. J. Vogel, at a hearing on April 5, 1989.]

H.R. 1334

H.R. 1334 would end the existing statutory reduction of pension payments to certain hospitalized veterans. Under current law (38 U.S.C. § 3203(a)(1)(B)), if a veteran pensioner who has neither spouse nor child is being furnished nursing home or hospital care by the Department of Veterans Affairs (VA), his or her pension is reduced to $60 per month after three calendar months following admission. Under 38 U.S.C. § 3203(a)(1)(A), pension for such a veteran receiving domiciliary care from VA is so reduced after two calendar months. H.R. 1334 would change the law so that hospitalization would not result in a reduction. Reduction could still occur when the pensioner is receiving VA-provided domiciliary or nursing home care.

Awards of need-based pension have long been subject to reduction when the pensioner is hospitalized by VA. Prior to the enactment of Public Law 86-211, the law required temporary reduction of a pension award to one-half or $30—whichever was greater—

when a pensioner with no wife, child or dependent parents was hospitalized at VA expense for more than six months. The balance of the award was withheld for the duration of hospitalization, with the withheld amount paid and the full award resumed upon discharge.

Public Law 86-211, effective July 1, 1960, established a new system of pension which was intended to make the pension program more reflective of the need concept on which it was based. As part of the redesigned system, 38 U.S.C. § 3203 was amended to provide a new rule of adjustment for veteran-pensioners with no dependents who were hospitalized at VA expense for more than two months. It was reasoned that since such a veteran received all essential care while in the hospital or domiciliary, the need for an income supplement for support was greatly reduced. Accordingly, the law provided that pension for such a veteran should not exceed $30 monthly (later changed to $50, then $60) for the duration of hospitalization and that the full award would be resumed upon discharge.

As noted, the Government furnishes the great part of the support for a hospitalized veteran without dependents. Hospitalization of these veterans may include intermediate care, which is a type of long-term care similar to nursing home care. Veterans receiving intermediate care have extended lengths of stay. Any abolition of the pension reduction or lengthening of the period following admission before a reduction takes place would only increase the value of the estate and the likelihood of inheritances by remote heirs. While we recognize that the veteran may in some cases have continuing obligations and fixed expenses, such as rent, we have no evidence that hospitalized pension recipients as a whole have been unable to meet their monthly obligations. Full benefits would be restored to the veteran upon discharge. The Administration believes that, where a veteran has no dependents and is being maintained at Government expense, pension benefits should not be allowed to merely increase an estate to be inherited by collateral heirs. Accordingly, the Administration does not support an abolition of the pension-reduction provision.

VA estimates the cost of H.R. 1334 to be $3,300,000 in fiscal year 1990, with a five-year cost of $17.5 million for fiscal years 1990 through 1994. The cost methodology for our cost estimates regarding H.R. 1334, H.R. 1335 and H.R. 1336 is set forth in a memorandum attached to my prepared statement.

H.R. 1336

H.R. 1336 would change eligibility requirements for DIC in the case of certain nonservice-connected deaths. As you know, DIC originated as a benefit paid to survivors of veterans who die on active duty or as a result of service. Since 1978, survivors of certain veterans who were permanently and totally disabled as a result of service but did not die as a result of service may also be eligible. Under current law, a spouse, to be eligible, must have been married to such a veteran for at least two years, or there must have been a child of the marriage. H.R. 1336 would change the required length of marriage to one year, which is consistent with the re-

quirement applied in cases of service-connected deaths where marriage occurred more than fifteen years after service.

We do not support this bill for two reasons. First, because section 418 generously confers entitlement to DIC in cases of nonservice-connected death, it is not unreasonable that there be a higher standard of eligibility applied. Second, the length-of-marriage issue was a point of contention resolved when this benefit was originally established in Public Law 95-479 in 1978. The House approach would have required at minimum a five-year marriage; the Senate would have essentially required one year. We view the two-year period chosen by Congress as a reasonable compromise. Accordingly, we oppose this measure.

Mr. Chairman, because there are no statistical data on the number of surviving spouses who apply for and are denied benefits as a result of being married to the veteran for at least one year, but less than two years, prior to the veteran's death, we are unable to provide estimated costs of H.R. 1336.

Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

TITLE 38, UNITED STATES CODE

PART II—GENERAL BENEFITS

CHAPTER 13—DEPENDENCY AND INDEMNITY COMPENSATION FOR SERVICE-CONNECTED DEATHS

SUBCHAPTER II—DEPENDENCY AND INDEMNITY COMPENSATION

§ 418. Benefits for survivors of certain veterans rated totally disabled at time of death

(a) * * *

(c) Benefits may not be paid under this chapter by reason of this section to a surviving spouse of a veteran unless—

(1) the surviving spouse was married to the veteran for [two years] *one year* or more immediately preceding the veteran's death; or

PART IV—GENERAL ADMINISTRATIVE PROVISIONS

CHAPTER 55—MINORS, INCOMPETENTS, AND OTHER WARDS

§ 3203. Hospitalized veterans and estates of incompetent institutionalized veterans

(a)(1)(A) Where any veteran having neither spouse nor child is being furnished domiciliary care by the Veterans' Administration, no pension in excess of $60 per month shall be paid to or for the veteran for any period after the end of the second full calendar month following the month of admission for such care.

(B) Except as provided in subparagraph (D) of this paragraph, where any veteran having neither spouse nor child is being furnished [hospital or] nursing home care by the Veterans' Administration, no pension in excess of $60 per month shall be paid to or for the veteran for any period after the end of the third full calendar month following the month of admission of such care.

(C) No pension in excess of $60 per month shall be paid to or for a veteran having neither spouse nor child for any period after the month in which such veteran is readmitted for care described in subparagraph (A) or (B) of this paragraph and furnished by the Veterans' Administration if such veteran is readmitted within six months of a period of care in connection with which pension was reduced pursuant to subparagraph (A) or (B) of this paragraph.

(D) In the case of a veteran being furnished [hospital or] nursing home care by the Veterans' Administration and with respect to whom subparagraph (B) of this paragraph requires a reduction in pension, such reduction shall not be made for a period of up to three additional calendar months after the last day of the third month referred to in such subparagraph if the Administrator determines that the primary purpose for the furnishing of such care during such additional period is for the Veterans' Administration to provide such veteran with a prescribed program of rehabilitation services, under chapter 17 of this title, designed to restore such veteran's ability to function within such veteran's family and community. If the Administrator determines that it is necessary, after such period, for the veteran to continue such program of rehabilitation services in order to achieve the purposes of such program and that the primary purpose of furnishing [hospital or] nursing home care to the veteran continues to be the provision of such program to the veteran, the reduction in pension required by subparagraph (B) of this paragraph shall not be made for the number of calendar months that the Administrator determines is necessary for the veteran to achieve the purposes of such program.

○